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## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

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| <b>2005 Assembly Bill 213</b>   | <b>Assembly Substitute<br/>Amendment 1</b> |
| <i>Memo published: May 12, 2005</i> <span style="float: right;"><i>Contact: Don Salm, Senior Staff Attorney (266-8540)</i></span> |  |

Assembly Substitute Amendment 1 defines the manufacturing of methamphetamine in the presence of a child as child abuse, requires the reporting and investigation of such child abuse, and grants the juvenile court jurisdiction over a child who is present during the manufacturing of methamphetamine.

### **CURRENT LAW**

#### **Child in Need of Protection or Services Definition of "Abuse"**

Under current law, the court assigned to exercise jurisdiction under the Children's Code (juvenile court) has exclusive original jurisdiction over a child who is alleged to be in need of protection or services and who meets certain jurisdictional grounds, including the ground that the child **has been the victim of abuse or is at substantial risk of becoming the victim of abuse**, and may impose certain dispositions on a child found to be in need of protection or services and the child's family. Current law defines "abuse," in part, as physical injury inflicted on a child by other than accidental means. [ss. 48.02 (1) and 48.13 (3) and (3m), Stats.]

#### **Child Abuse Reporting Law [s. 48.981, Stats.]**

Current law specifies that certain individuals, such as physicians, nurses, social workers, teachers, day care providers, and law enforcement officers having reasonable cause to suspect that a child seen in the course of professional duties has been abused or having reason to believe that a child seen in the course of professional duties has been threatened with abuse and that abuse will occur **must report**, and any person having reason to suspect that a child has been abused or reason to believe that a child has been threatened with abuse and that abuse will occur **may report, that suspected or threatened abuse to the** sheriff, local police department, or county department of human services or social services (county department).

On receipt of a report, the sheriff or local police department must immediately investigate to determine if there is reason to believe that the child's health or safety is in immediate danger and take necessary action to protect the child, and the county department must initiate a diligent investigation to determine if the child is in need of protection or services and, if the child is in need of services, offer to provide those services. If those services are refused, the county department may request the district attorney to file a petition alleging that the child is in need of protection or services.

### **ASSEMBLY SUBSTITUTE AMENDMENT 1**

Assembly Substitute Amendment 1 **expands the definition of "abuse"** in the Children's Code to include manufacturing methamphetamine in violation of s. 961.41 (1) (e), Stats.:

1. With a child physically present during the manufacture;
2. In a child's home, on the premises of a child's home, or in a motor vehicle located on the premises of a child's home; or
3. Under any other circumstances in which a reasonable person should have known that the manufacture would be seen, smelled, or heard by a child.

As a result of this change in the definition of "abuse" to include these methamphetamine circumstances, the substitute amendment:

1. Grants to the juvenile court "child in need of protection or services" (CHIPS) **jurisdiction** over such a child (under the methamphetamine circumstances described above) on the grounds that the child has been the victim of abuse or is at substantial risk of becoming the victim of abuse; and
2. **Expands** the scope of the **child abuse reporting law** to require that such a child be reported and investigated under that law.

The substitute amendment provides that, if the bill is enacted into law, it **first applies** to abuse, as defined in s. 48.02 (1) (g), as created by the new law, that occurs on the effective date of the new law.

### **Legislative History**

On May 10, 2005, the Assembly Committee on Family Law voted to adopt Assembly Substitute Amendment 1 on a vote of Ayes, 6; Noes, 0. The committee then recommended passage of the bill, as amended, on a vote of Ayes, 6; Noes, 0.

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